

REMARKS/ARGUMENTS

In the Office action dated May 9, 2008, the Examiner rejected claims 1 and 7 under 35 U.S.C. § 112, first paragraph as not being enabling. Claims 1, 5, 7 and 9 stand rejected under 35 U.S.C. § 112. Claim 1 also stands rejected under 35 U.S.C. § 112, 2d paragraph. Claims 1 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,379,281 to Calletti *et al.* in view of U.S. Patent No. 4,749,060 to Vandelinde. Claims 2 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over '281 and '060 and further in view of U.S. Patent No. 4,462,749 to Crocker *et al.*

In the Specification, no changes.

In the Claims, claims 1, 5, 7 and 9 are amended to overcome the various 35 U.S.C. § 112 rejections.

The Invention

Applicant's transporter includes a worker occupancy volume, the inside of which is designed to hold one or more worker(s) who is/are enabled to reach upwardly through the open top of this cage-like structure into an overhead region formed as a load-support deck structure, on which all transported loads are handled by the transporter. The transporter of the invention possesses opposite-side (a) fork-receiving, and (b) load-lateral-delivery, sides, and the overhead load-support deck structure is equipped, adjacent the fork-receiving side of the transporter, with load-stop risers which positively prevent any lateral off-loading of a carried load in a direction aimed toward the fork-receiving side of the transporter.

The Applied Art

U.S. Patent No. 3,379,281 to Calletti *et al.* describes a worker transport platform designed to be lifted by a fork lift having dual, independently operable fork lifting mechanisms therein.

U.S. Patent No. 4,749,060 to Vandelinde describes a platform having a floor structure, a partially extending side rail and a pair of upper rails, each of which is supported by a pair of spaced apart vertical tubular members which are slip-fit into and supported by the side rails.

U.S. Patent No. 4,462,749 to Crocker *et al.* describes a mechanism for handling cylindrical objects.

The Claims

The following is a statement of claim, as currently amended, which has been formatted to set forth the elements thereof:

Claim 1. A machine-liftable and maneuverable, open cage load transporter for handling and promoting installation-site delivery of building-frame beam components during the construction of a plural story structural building frame, said transporter having a fork-receiving side and an opposite, load-lateral-delivery side, and comprising

a worker occupancy volume fully occupying the inside of a worker-carrying cage structure defined by substantially horizontal floor structure which is joined to substantially upwardly extending, open, and at least partially floor-perimeter wall structure, and

disposed substantially directly overhead said floor and wall structures, and above said worker occupancy volume, generally upwardly facing, open, horizontal, elongate, load-support deck structure

including a pair of spaced apart deck structure elements which are supported by

a pair of spaced apart upright supports,

the deck structure having one end adjacent the mentioned load-lateral-delivery side, and an opposite end defined by upwardly extending load-stop riser structure,

said deck-structure being adapted for the overhead supporting and load-carrying of

all elongate building-frame beam components which are to be handled by the transporter,

said deck structure having an open framework which is open to the underlying worker occupancy volume so as to accommodate load-handling personnel access, and to promote attended personnel assistance, by a worker stationed in said occupancy volume.

Addressing first the 35 U.S.C. § 112 issues, the first rejection based on this statutory provision, 35 U.S.C. § 112, 1st paragraph, is that the specification is not enabling to fabricate a device which cannot hold all beam types. This, however, is not claimed: the claim recites: *all elongate building-frame beam components which are to be handled by the transporter,...* Thus, there is no claim that the transporter of the invention handle ALL beam types, but that the transporter is merely able to handle those beam components which it is designed to handle. This § 112 rejection should be withdrawn.

The objection to “cage-like” and “beam-like” is noted, and the language has been changed. However, the portion of the MPEP cited by the Examiner does not support the rejection. MPEP § 2173.05(d) deals with use of “exemplary” language which clearly renders a claim indefinite. “Like” is not such a term, and language such as “cage-like” has been accepted claim language for quite some time. There is no known case, statutory or regulatory law which precludes use of “-like” language, nor is there any portion of the MPEP which states that such language is subject to a 35 U.S.C. § 112, 2d paragraph rejection.

With respect to the 35 U.S.C. § 112, 2d paragraph rejection of claim 1

“consisting” language, that language has been changed and the rejection should be withdrawn.

With respect to the support of the horizontal deck beam, a review of the above-recited, re-formatted claim 1 should be instructive. The claim recites:

...disposed substantially directly overhead said floor and wall structures, and above said worker occupancy volume, generally upwardly facing, open, horizontal, elongate, load-support deck structure
including a pair of spaced apart deck structure elements which are supported by
a pair of spaced apart upright supports,...

The claim recites a deck structure, which includes a pair of deck structure elements which are [each] supported by a pair of upright supports, thus, each deck structure element is supported by a pair of upright supports. The 35 U.S.C. § 112, 2d paragraph rejection should be withdrawn.

Turning now to the merits of the claims rejections, initially, the combination of ‘281 and ‘060 fails to encompass all of the recited claim elements. Specifically, the combination of references does not teach nor suggest provision of a load-stop riser structure. Further, the combination does not provide for the load carried thereby to be located directly overhead the floor and wall structure (the second set of forks of ‘281 operates below the top margin of the wall structure), nor is the load capable of being located over the worker occupancy volume. Claims 1 and a 7 are allowable over the applied combination.

The applied combination includes a ‘060 deck structure which is supported by uprights which attach to and are supported by the wall structure. Applicant’s transporter uprights originate on the floor structure. While not claimed at this time, this is a difference which could be incorporated into claims 1 and 7 to further avoid the applied combination.

Claims 2 and 8 recite the provision of a deployable lateral extension, located adjacent one end of the deck structure, which form a co-planar lateral extension of the deck structure. '749 is combined with '281 and '060 to provide this structure according to the Examiner, however, element 44 of '749, while located adjacent an end of the pipe handling structure, is not shown to provide a co-planar extension of the device, as element 44 does not extend past the end of the device, and appears to fold inward rather than extending beyond the lateral margin of the device. There is no requirement in the claim that the lateral extension prevent an object from moving past an end of the deck support structure, so it is not clear what point the Examiner is attempting to make with the language of the rejection. In any event, the claim language is not rendered obvious by the combination of the three references, and the claims are allowable thereover.

The 35 U.S.C. § 112, 2d paragraph rejections of claims 5 and 9 having been overcome, these claims are allowable.

In light of the foregoing amendment and remarks, the Examiner is respectfully requested to reconsider the rejections and objections state in the Office action, and pass the application to allowance. If the Examiner has any questions regarding the amendment or remarks, the Examiner is invited to contact the undersigned.

Provisional Request for Extension of time in Which to Respond

Should this response be deemed to be untimely, Applicants hereby request an extension of time under 37 C.F.R. § 1.136. The Commissioner is hereby authorized to charge any